

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

PASTOR BENJAMIN A. JOHNSON,  
DR. RONALD A. LUNDEEN, and  
PASTOR ARTHUR F. HAIMERL on  
behalf of themselves and all others  
similarly situated,

Plaintiffs,

v.

EVANGELICAL LUTHERAN  
CHURCH IN AMERICA, AND THE  
BOARD OF PENSIONS OF THE  
EVANGELICAL LUTHERAN  
CHURCH IN AMERICA,

Defendants.

Court File No. 11-cv-00023 (MJD-LIB)

**DECLARATION OF ROCHELLE  
CHRISTENSEN IN SUPPORT OF  
DEFENDANT BOARD OF PENSIONS  
OF THE EVANGELICAL LUTHERAN  
CHURCH IN AMERICA'S OPPOSITION  
TO PLAINTIFFS' MOTION FOR CLASS  
CERTIFICATION**

I, Rochelle Christensen, declare as follows:

1. I am the Director of Member Services of the Board of Pensions of the Evangelical Lutheran Church in America (the "Board"). I have held this position since it was created in 2004. Prior to serving as Director, I served as the Manager of Member Services from 2001 to 2004.

2. In my capacity as Director and the former Manager of Member Services, I have personal knowledge of the factual information stated in this declaration except as otherwise indicated and, if called to testify, could testify truthfully and competently to the facts discussed below. I also have knowledge of the manner in which the Board maintains business records, and have access to the Board's business records relating to member communications. Each of the documents attached as an exhibit to this

declaration is a document maintained in the ordinary course of the Board's business.

3. Since 2001, my job responsibilities have included:

- a) Managing the Member Services department, including the call center that responds to written and telephonic questions from members of the plans managed by the Board, including the ELCA Retirement Plan ("Plan");
- b) Overseeing the Board's processing of member benefits, including enrollments, annuity distribution elections, and Plan administration relating to life events impacting members' benefits;
- c) Ensuring my department's awareness of the dissemination of the Board's written communications to Plan members on both an individual and member-wide basis (including the mailing of summary plan descriptions ("SPDs"), member-requested Plan documents, and other Plan-related letters and publications); and
- d) Reviewing and signing certain letters sent to Plan members relating to the annual adjustment of annuities.

4. The Board's business records reflect that the Board commonly mailed copies of SPDs to all Plan members. All new members are mailed a copy of the current SPD upon their enrollment in the Plan. The Board's business records also reflect that any time there is a material modification to the Plan, all Plan members are sent an updated version of the SPD reflecting the modification. The Board's business records show that SPDs were mailed to Plan members in at least following years: 1990, 1991, 1992, 1995,

1997, 1998, 2000, 2001, 2002, 2003, 2006, and 2010.

5. The Board's business records also reflect that throughout the life of the Plan, the Board has mailed members periodic newsletters and other communications discussing benefits.

6. Attached as Exhibit 1 is a copy of a letter dated November 2004 from the Board, signed by me, to Plan members with interests in the Participating Annuity and Bridge Fund ("PABF"). This letter includes a graph detailing the PABF's annual returns. In this letter, the Board informs the members that:

Although financial markets improved during 2003 and 2004, the interest-crediting formula indicated the crediting rate for 2005 should again be lowered by 1 percent. The formula takes into account the fund's actual 12-month performance return as well as how we expect the fund to perform over the long-term.... The interest-crediting rate is structured to stabilize your account value and deliver positive returns from year to year, even in years when the markets experience negative returns. By design, some years the crediting rate will be set lower than actual market returns, and other years it will be higher. . . .

It is important to note that ultimately the Participating Annuity Bridge Fund will credit all of the investment gains and losses experienced by the fund. The interest-crediting formula allows this process to occur over time so that year-to-year fluctuations are greatly reduced.

7. Attached as Exhibit 2 is a copy of a document entitled "*What About? Your retirement income options*," which the Board's business records show the Board published in February 2001 and distributed to Plan members considering retirement. Page 3 of this document informs members that annuities paid from the PABF are participating annuities:

Your accumulations will be converted into a participating annuity, which means you participate in the gains and possible losses of the market. . . . Unless there is a serious and prolonged downturn in the market, you can assume your monthly pension income will increase from year to year according to the interest credit determined annually by the Board of Pensions. (The Board of Pensions does not currently offer a fixed annuity. A fixed annuity pays a fixed amount every month regardless of market performance.)

8. Attached as Exhibit 3 is a copy of a different version of “*What About? Your retirement income options*,” which the Board’s business records show the Board published in November 2001 and distributed to Plan members considering retirement. Page 3 of this document informs members that annuities paid from the PABF are participating annuities:

Your Regular Pension Plan accumulations will be converted into a participating annuity, which means you participate in the gains and possible losses of the market. . . . Unless there is a serious and prolonged downturn in the market, you can assume your monthly pension income will increase from year to year according to the interest credit determined annually by the Board of Pensions.

9. Since 2001, the Board’s practice has been to mail a pre-retirement kit to members who inform the Board that they are considering retirement. The kit includes a booklet, retirement forms, and a return envelope and explains the Plan’s benefit distribution options, including various forms of annuities. The Board’s business records reflect that a similar practice was followed to distribute retirement kits from 1988 through 2000. Attached as Exhibit 4 is a copy of a retirement information booklet published by the Board in March 2001 and entitled “Retirement.” On page 19 of this booklet there is a section entitled “Participating annuity” which informs members that:

A participating annuity allows you to “participate” in the effects of

the market through the [Annuity Fund], from which your pension payment is drawn. Your lifetime monthly pension payment will be adjusted according to market performance of the [Annuity Fund], from which your payments are drawn. Your payment is likely to increase, though it is possible for your payment amount to go down if the market were to experience a serious and extended downturn.

On page 13 of the same booklet, there is a section entitled "Annual increases in lifetime monthly pension income" which informs members that:

Because the Board of Pensions uses a participating annuity, you will 'participate' in the fluctuations of the market to a small degree. If the history of the market is a predictor, the Board of Pensions expects to increase the amount of your lifetime monthly pension by 3 percent to 5 percent each Jan. 1. Any increase is permanent and applies to all pensions payable to you, your joint annuitant and beneficiaries.

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10. Attached as Exhibit 5 is a copy of another retirement information booklet published by the Board dated April, 2002. On page 25 of this booklet, in the section entitled "Participating Annuity," the booklet informs members that:

A participating annuity allows you to 'participate' in the effects of the market through the pensioner reserve. Your lifetime monthly pension payment will be adjusted according to market performance of the pensioner reserve from which your payments are drawn. Your payment is likely to increase, though it is possible for your payment amount to go down if the market were to experience a serious and extended downturn....

11. Attached as Exhibit 6 is a copy of another retirement information booklet published by the Board dated January 1, 2004. On page 16 of this booklet, in the section entitled "Annual annuity increases," the booklet informs members that "[b]ecause the ELCA Retirement Plan offers a participating annuity, you will 'participate' in the fluctuations of the market to some degree."

12. The Board also communicates with individual members through one-on-one phone conversations, letters, and in-person meetings, during which members can ask questions about their benefits, the various forms of annuity, and personal retirement planning. From 2001 to present, the Board's call center has been staffed by up to 50 employees, each of whom is trained on the Board's benefit products, including the annuity options. Quality control staff members review the accuracy of a sampling of responses.

13. Attached as Exhibit 7 is a copy of the Board's business records reflecting the notes taken by Board staff members relating to an October 17, 2008 telephone call from Pastor Benjamin A. Johnson. The record reflects that a staff member received a call from Pastor Johnson's at 2:10 p.m. and made notes reflecting that Pastor Johnson was "concerned about his annuity going down next year." The staff member transferred the call to another service center representative to address Pastor Johnson's concern. The notes from that staff member record the substance of the discussion with Pastor Johnson as follows:

Wanted some reassurance on his annuity and what will happen next [year]? I said we won't know for sure until late Dec[ember] if the annuities are increasing or not. It would have to be extraordinary circumstances for them to go down, but this year has been like that, so who knows? No guarantees.

14. Throughout my tenure, the Board has annually informed annuitants of adjustment to their annuities. The Board's business records reflect that this had also been the Board's practice from 1988 through 2000. Attached as Exhibit 8 is a copy of a letter

sent to annuitants in or around March 2005, signed by me, informing annuitants of the 2005 benefit adjustment.

15. Attached as Exhibit 9 is a copy of a letter sent to Pastor Johnson in or around December 2003, signed by me, enclosing information about how his monthly annuity payment would change for the coming year. Exhibits 10 and 11 are additional letters that were sent to Mr. Johnson under my signature in or around December 2004 and December 2005, respectively.

16. Attached as Exhibit 12 are copies of excerpts of the minutes of the Board's August 5, 2010 Board of Trustees meeting maintained in the ordinary course of business.

~~These minutes reflect that the Evangelical Lutheran Church in America ("ELCA")~~

offered payments from the Special Needs Retirement Fund to help the annuitants most impacted by the 2010 annuity reductions. The Board facilitated the mailing of letters informing about 10,000 annuitants of the ability to apply for a payment from the Special Needs Retirement Fund and processed payments for those members eligible for such payments.

17. Attached as Exhibit 13 are copies of screen shots taken from the Board's electronic information systems reflecting the amounts of Pastor Johnson's annuity benefit in every year from 1995 through 2012 except for 2008, a screen shot for which was unavailable.

18. Attached as Exhibit 14 is a copy of the ELCA Participating Annuity Trust effective January 1, 2010, as maintained in the Board's business records.

19. Attached as Exhibit 15 is a copy of the ELCA Retirement Pension Plan

1998 Description of Investment Funds, as maintained in the Board's business records.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 6 day of September 2012, in Minneapolis,  
Minnesota.

  
Rochelle Christensen